ency to remove the disabilities of coverture as an indication that such enforcement is neither pernicious nor impolitic. *Thompson* v. *Taylor* (1901) 66 N. J. L. 253, 49 Atl. 544; *Bowles* v. *Field* (C. C. A. 1897) 78 Fed. 742; *International Harvester Co.* v. *McAdam* (1910) 142 Wis. 114, 124 N. W. 1042. The principal case adopts a contrary rule holding that the inability of a married woman so to contract created by a statute of her domicil evidences a policy, where the domicil and the forum are the same state, opposed to charging her estate with the obligation. *Cf. Armstrong* v. *Best* (1893) 112 N. C. 59, 17 S. E. 14. The decision is less in accord with the general principles regulating the enforcement of foreign contracts than is *Thompson* v. *Taylor, supra,* and it would appear unfortunate that the Supreme Court should have adopted it in determining the Texas law in this regard, particularly since the Texas courts do not seem to have passed upon this point of policy.

CONSTITUTIONAL LAW — AWARD BY CONGRESS — VALIDITY OF STATUTE REGULATING ATTORNEY'S FEES—The plaintiff was an attorney who had prosecuted a claim, upon a contingent fee of 50%, against the United States for the value of property taken by military forces during the Civil War. An Act of Congress, recognizing the claim and one similar to it, was passed, which prohibited attorneys from receiving a fee greater than 20% of the amount awarded. In a suit to test the validity of the act, *held,* one judge dissenting, that it was unconstitutional. *Newman* v. *Moyers* (D. C. App. 1917) 50 Chicago Legal News 217.

Since the United States cannot be sued without its consent, the payment of a claim against it depends entirely upon its voluntary action and cannot be demanded as a matter of legal right. See *United States* v. *Clarke* (1834) 33 U. S. 436, 444; *United States* v. *Lee* (1882) 106 U. S. 196, 1 Sup. Ct. 240. Consequently, an award recognizing the validity of a claim must be accepted subject to the terms and conditions imposed thereon, *Ralston* v. *Dunaway* (1916) 123 Ark. 12, 184 S. W. 425; *Ball* v. *Halsell* (1896) 161 U. S. 72, 16 Sup. Ct. 554, in the same manner as a gratuity or bounty of the government. *Frisbie* v. *United States* (1895) 157 U. S. 160, 15 Sup. Ct., 586; *United States* v. *Hall* (1878) 98 U. S. 343, 351. The imposition of a condition restricting the amount of compensation which an attorney may receive for prosecuting a claim is a constitutional exercise of congressional power. *Ball* v. *Halsell, supra.* Though contracts for contingent fees, dependent upon the recovery of the claim, have been upheld as legal, *Nutt* v. *Knut* (1906) 200 U. S. 12, 26 Sup. Ct. 216; *Taylor* v. *Bemiss* (1884) 110 U. S. 42, 3 Sup. Ct. 441, yet, as against the fund recovered, they are subject to the conditions imposed upon the award. *Ralston* v. *Dunaway, supra.* But a different result has been reached where the question involved was whether an attorney could recover on his contract out of other property possessed by his client. *Davis* v. *Commonwealth* (1895) 164 Mass. 241, 41 N. E. 292; *Moyers* v. *Fahey* (Distr. Col. 1915) 43 Wash. L. R. 691. The holding in the instant case would, therefore, seem to be erroneous in so far as it permitted the attorney to maintain a lien upon the fund appropriated beyond the amount which Congress allowed him.

CONSTITUTIONAL LAW—STATE TAXATION AFFECTING INTERSTATE COMMERCE.—The state of Pennsylvania imposed an annual mercantile license tax upon each wholesale and retail vender of goods, "one-half

mill additional on each dollar of the whole volume, gross, of business transacted annually." The plaintiff sold and delivered at wholesale from a warehouse located in the state, merchandise to purchasers within the state and to customers in foreign countries. The bulk of the sales was to purchasers without the state. In an action to determine the validity of the tax, it was *held* that the tax was unconstitutional. *Crew Levick Co.* v. *Commonwealth of Pennsylvania* (1917) 245 U. S. 292, 38 Sup. Ct. 126.

Merchants and others doing a local business are subject to an occupation tax of a specific and reasonable amount, even though a considerable part of the business done is interstate commerce. *Kehrer* v. *Stewart* (1905) 197 U. S. 60, 25 Sup. Ct. 403; *Postal Telegraph Co.* v. *City of Portland* (D. C. 1915) 228 Fed 254. The Supreme Court has, however, gone further in *Ficklen* v. *Shelby County Taxing District* (1892) 145 U. S. 1, 12 Sup. Ct. 810 which permitted a state to require as a condition for a license to do general brokerage business, the payment of a fee measured by the receipts from interstate as well as from local business. Where, however, a tax, whether it be called an occupation tax or not, is measured by gross receipts from all business, an element similar to the one which has perplexed the court in determining the validity of taxation of foreign corporations for the privilege of doing local business, would seem to be involved. *Cf. Western Union Tel. Co.* v. *Kansas* (1910) 216 U. S. 1, 30 Sup. Ct. 190; see 18 Columbia Law Rev. 168. If the business taxed includes interstate commerce, a tax on the gross receipts thereof would seem to affect directly the flow of goods to and from other states, since it is obvious that the greater the exporting of goods, the greater would the tax become. It is difficult, however, to distinguish the instant case from the *Ficklen* case. The distinction drawn by the court in the principal case to the effect that the tax was not an occupation tax except as it was levied on the very carrying on of the business of exporting merchandise, is not very potent, since the "exception" is equally applicable to the *Ficklen* case, which therefore seems to be practically and rightly overruled. See *Galveston, etc., Ry.* v. *Texas* (1908) 210 U. S. 217, 28 Sup. Ct. 638; 31 Harvard Law Rev. 721, 762 *n.* 156. Though the Supreme Court has permitted taxes on property to be measured by receipts which are in part from interstate commerce, *Adams Express Co.* v. *Ohio* (1897) 165 U. S. 194, 17 Sup. Ct. 604, it has declared invalid a tax on railroads "equal to" a percentage of the gross receipts. *Galveston, etc., Ry.* v. *Texas, supra.* The tendency, therefore, would seem to be to permit states to take account of interstate business once only in the levying of their taxes, and to uphold such taxes when they are laid upon the property, tangible or intangible, within a state, since such taxes appear, at least in so far as their nomenclature is concerned, to affect interstate commerce the least. *Cudahy Packing Co.* v. *Minnesota* (U. S. Sup. Ct. Oct. Term 1917, No. 32).

CORPORATIONS—CONTESTED ELECTION OF DIRECTORS—REMEDY.—Plaintiffs filed a bill in equity to try the validity of the corporate election of directors, claiming that the election of the defendants, who were acting as directors, was invalid. A statute provided that *quo warranto* could be brought against any person wrongfully exercising a franchise. *Held,* three judges dissenting, that the plaintiffs had an adequate remedy at law by *quo warranto* under the statute, and therefore no relief in equity would be granted. *Grant* v. *Elder* (Colo. 1917) 170 Pac. 198.